

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Kenji KIMURA et al.

Group Art Unit: 1795

Serial No : 10/500,472

Examiner: Cynthia K. LEE

Filed : July 15, 2004

Confirmation No.: 7889

For : BATTERY AND BATTERY ASSEMBLY

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop AF
Randolph Building
401 Dulany Street
Alexandria VA 22314

Sir:

In response to the Final Official Action of April 30, 2009, and concurrently with the filing of a Notice of Appeal, Applicants respectfully request a pre-appeal brief panel to review and withdraw the outstanding rejection. Further, Applicants request an indication of the allowability of all claims pending in the present application in view of the herein contained remarks.

Remarks begin on page 2 of this paper.

REMARKS

Applicants respectfully traverse the Examiner's rejection of claims 2, 4 and 13-15 under 35 U.S.C. § 102(b) or 35 U.S.C. §103(a) as being anticipated by or obvious over Terashi (Japanese Patent Publication No. 2000-340210), the rejection of claims 1, 3, 6-8, 10, 11, 17 and 18 under 35 U.S.C. §103(a) as being unpatentable over Terashi in view of Marukawa (U.S. Patent No. 5,900,332), the rejection of claim 5 under 35 U.S.C. §103(a) as being unpatentable over Terashi in view of Marukawa and Ikoma (U.S. Patent No. 5,663,007), the rejection of claim 12 under 35 U.S.C. §103(a) as being unpatentable over Terashi in view of Ikoma, and the rejection of claims 9 and 16 under 35 U.S.C. §103(a) as being unpatentable over Terashi in view of Marukawa and Tucholski (U.S. Patent Application Publication No. 2002/0031705). Applicants submit the following as examples of clear legal and factual deficiencies in the outstanding rejection.

The applied prior art does not disclose or suggest a battery which includes an electrode assembly comprising positive and negative electrode plates, and a lid, wherein core materials of the positive and negative electrode plates are bared at ends of the electrode assembly, and “the lid contacts and is welded to the bared portion of the core material of one of the electrode plates of the electrode assembly”, as recited in Applicants' independent claims 1 and 2.

Terashi discloses a battery which includes an electrode object 2, an obturation plate 11, a current collection section 5 and a current collection member 4. The electrode object 2 includes a positive electrode 21 and a negative electrode 23, and the current collection member 4 includes a monotonous section 43 and a tab section 42. See Fig. 1 and paragraphs [0013]-[0017] of the English language translation of Terashi.

Applicants submit that Terashi's lid (obturation plate 11) does not contact the electrode object 2, and is not welded to the electrode object 2. Rather, Terashi's lid 11 contacts and is welded to only the tab section 42 (which does not read on Applicants' electrode plates). See Fig. 1 and paragraph [0017] of Terashi.

The Examiner has argued that the claims do not require the lid to be in "direct" contact with the electrode plates. See page 14 of the Office Action dated October 30, 2008. Nevertheless, Applicants respectfully submit that it is unreasonable to construe Terashi's lid 11 as contacting the electrode object 2, as the lid 11 clearly does not touch the electrode object 2. Instead, the lid 11 is spaced apart from the electrode object 2, and merely has an electrical connection with the electrode object 2 via tab section 42, monotonous section 43 and current collection section 5. See Fig. 1 of Terashi.

On page 13 of the Final Office Action dated April 30, 2009, the Examiner responds to this argument by asserting that the claims do not recite that the lid "touches" the electrode, as previously argued. However, Applicants respectfully submit that the term "contact" is synonymous with the term "touch", as common dictionary definitions of "contact" include "the act of touching physically" and "the state or condition of touching". Thus, Applicants submit that Terashi's lid 11 does not "touch" or "contact" the electrode object 2. Accordingly, the applied prior art does not suggest the feature "the lid contacts and is welded to the bared portion of the core material of one of the electrode plates of the electrode assembly", as recited in Applicants' independent claims 1 and 2.

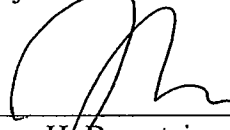
For at least these reasons, Applicants request withdrawal of the outstanding rejections, and issuance of a Notice of Allowance.

SUMMARY AND CONCLUSION

Applicants believe that the present application is in condition for allowance, and respectfully request an indication to that effect.

Should the Examiner have any questions or comments regarding the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Kenji KIMURA et al.



Bruce H. Bernstein
Reg. No. 29,027

July 30, 2009
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

James K. Moore, Jr.
Reg. No. 56,272